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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/901,871	07/09/2001	Gerard G. Cervello	US 000162	5956
24737	7590	12/28/2004	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS			TRAN, THIEN D	
P.O. BOX 3001			ART UNIT	PAPER NUMBER
BRIARCLIFF MANOR, NY 10510				

2665  
DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	Applicant(s)	
09/901,871	CERVELLO ET AL.	
Examiner	Art Unit	
Thien D Tran	2665	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1) Responsive to communication(s) filed on 26 October 2004.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4) Claim(s) 1-27 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 7-22 is/are allowed.  
 6) Claim(s) 1-6 and 23-27 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
     Paper No(s)/Mail Date 10/09/2002.

4) Interview Summary (PTO-413)  
     Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-6, 23-27 are rejected under 35 U.S.C. 102(e) as being participated by Wellig et al (U.S Patent No. 6,580,704 B1).

Regarding claims 1, 23, Wellig discloses a method for dynamically selecting a communication channel between an access point (AP) and a plurality of stations (STAs) located within the coverage area of a basic service set, hereinafter BSS, in a wireless local area network (WLAN), figure 10, the method comprising the steps of:

- (a) determining whether a new channel setup to be used by said plurality of stations MT1-MTn is needed, figure 6;
- (b) issuing slots for MT1, MT2 (requesting), by said AP, for a channel signal quality measure to at least one of said plurality of stations, col.11 lines 10-30;
- (c) reporting a channel signal quality report to said AP based on a received signal RSS value based on deep fade changes, col.4 lines 1-5, or power levels, attenuation , col.9 lines 50-60, (strength indication, hereinafter RSSI, and a packet error rate

hereinafter PER) of all channels measured by said plurality of stations, col.11 lines 20-30;

(d) determining a plurality of time slots (candidate channels) for use in communication between said AP and said plurality of stations, col.9 lines 60-63; and  
(e) selecting one of said candidate channels for setting up a connection based on said channel quality report for use in communication between said AP and said plurality of stations, figure 6.

Regarding claims 2, 24 Wellig discloses the transmitting the granted slots for communication (selected channel information) to said plurality of stations by said AP, col.11 lines 50-65.

Regarding claims 3, 25 Wellig discloses establishing communication to said selected channel between said AP and said plurality of stations, col.12 lines 50-55.

Regarding claims 4, 26 Wellig discloses that channel signal quality report further includes an interference signal level caused by another communication device, said interference signal level is based on the absence of any 802.11 frame reception, col.1 lines 25-35.

Regarding claims 5, 27 Wellig discloses that RSSI and said PER is used to determine said channel signal quality and a relative distance between the STA requested for said channel signal quality measure and a plurality of adjacent stations from said adjacent BSS, col.4 lines 1-5.

Regarding claim 6, Wellig discloses that it is determined that said new channel is needed in step (a) if one of the following conditions occurs: (1) said BSS is formed by

said AP, col.4 lines 30-40; (2) said AP or said STA experiences a bad channel condition; (3) said BSS overlaps with an adjacent BSS; and, (4) no association of said STA by said AP occurs longer than a predetermined time period, figure 1.

***Allowable Subject Matter***

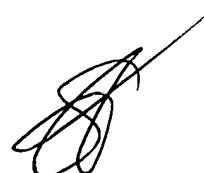
3. Claims 7-22 are allowed.

***Conclusion***

4. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Thien Tran whose telephone number is (571) 272-3156. The examiner can normally be reached on Monday-Friday from 8:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu, can be reached on (571) 272-3155. Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-2600.

Thien Tran



STEVEN NGUYEN  
PRIMARY EXAMINER